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II. THE STUDY OF GREEK AND LATIN AS A PREPARATION FOR
THE STUDY OF LAW

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If one were to select a single word to express the aims and ambitions of the present day in substantially every field of human effort, that word would be "efficiency." The *result* is everywhere the principal thing sought after, and, with regret it must be said, the method of reaching the result is considered with more or less indifference. This applies even to the training of lawyers. There is a widespread indifference upon the subject, in general, as well as a tendency away from the study of the classics as a preliminary professional training.

That the study of Latin and Greek has tradition on its side is no longer an effective argument. We should, therefore, abandon that argument, and we may abandon it without regret; for in the first place, it is a waste of time to advance an argument which we know will not be considered by the jury to which we are addressing it—such procedure only wearies the hearers; and, in the second place, there is a change in the conditions surrounding the practice of the law which calls for a restatement of what is necessary in preparatory courses, and if we found our arguments upon present needs, we shall get a hearing before those whom we desire to reach.

The changes in conditions now demand greater breadth of view in members of the bar, and the reason is not far to seek. From the days of Magna Charta to our Civil War the legal profession furnished the leaders, and was the most important factor in the development of political liberty. Its writs of habeas corpus and trial by jury have been among the means of developing individual freedom and a true democracy. So long as the pressing questions were those relating to the basic rights of men, the lawyer necessarily, in the practice of his profession, was compelled to consider the rights of all members of society, and in a measure to keep in consideration the status of all citizens or subjects; and this naturally developed a breadth of

view. But all these great and important questions have been substantially settled. No longer do the virtues of the writ of habeas corpus and the right of trial by jury serve as the grandiloquent perorations of Fourth of July speeches. Our questions today are what Mr. Lecky would call "money disputes," and these have a narrowing tendency. While the lawyer of today has to know the wider and more complicated business relations that now exist, and know them better than the lawyer of half a century ago, the relations are financial, absolutely; human interests and the development of society are less and less necessary subjects of inquiry in the actual practice of our profession, and we must therefore meet the narrowing tendency by a broader training in order to produce the best result. Mere breadth of view in itself will be ineffective unless it is accompanied by the power of generalization, for laws themselves are but generalizations legitimately drawn from concrete conditions. Let us, therefore, taking no account, for the moment, of the development of the mind in accuracy of detail, pass to the more important subject, to that breadth of view which enables the individual to generalize correctly, and hence to be able to apply those generalizations to specific facts submitted to him for his opinion. Let us meet the issue squarely, not by praising the value of Latin and Greek as a means of training, but by comparing it with modern languages, mathematics, and the natural sciences.

I. (a) The modern languages are in their nature changing, and current language is full of colloquial, if not slang, phrases which are not accurate expressions of thought. In this respect the dead languages have the advantage. The student who studies the German of Goethe and Schiller will probably remember no more about those works twenty years after he has studied them than he would of Homer or Virgil; yet in neither case would it be reasonable to deny the disciplinary value of the study. But the main advantages of dead languages over modern languages is that the subject-matter of the literature of modern languages is our complex modern life, full of the emotions of pity and sympathy. The subject-matter of the literature of the dead languages is more remote from us; it stimulates thought rather

than emotion; the records of wars, the great jury speeches of Demosthenes and Cicero, the laws and political constitutions of the peoples of antiquity, when properly studied involve accurate expression and logical rather than sympathetic development. Nor are the poems of Homer or Virgil an exception; their appeal to us is not emotional in the modern sense; the subjects stressed in Greek and Latin literature are the conduct of life and the government of men and the lessons of history—the subject-matter of that literature itself educates a lawyer.

(b) Again, the advantage of Latin and Greek over any modern language grows out of the fact that our own tongue consists of these languages or their derivatives grafted upon an Anglo-Saxon stock. We cannot learn Latin and Greek without learning English better; and he who is a good Latin grammarian is a good English grammarian without further study. It was James Russell Lowell who said that he believed he had never made a mistake in the meaning of an English word until one day in a hurry he consulted an English dictionary instead of a Greek or Latin dictionary for the root meaning of the word sought. For the man who has studied Latin and Greek, the saving of time and labor that comes from knowing the meaning of an English word of classical origin met with for the first time is a large element in the economy of time; and in addition, because he knows the fundamental meaning of the word, he has an accuracy of definition that cannot be obtained from an English dictionary which gives all the various uses of a word without making prominent the root meaning in the foreign language.

(c) A third advantage arises from the fact that Latin law has been grafted upon Anglo-Saxon law. Our practice in chancery borrows from the civil law both its substantive enactments and in a large measure its practice, and all our probate or surrogate courts, by whatever name they are known in the various states, are simply inheritors of the ecclesiastical law of England so far as applicable to American conditions. The civil law, and not the common law, controls descent and heirship in almost all states throughout the Union and in England. It would seem a waste of time to attempt to elaborate the importance, for the

lawyer, of a knowledge of the language in which is written so large a part of the law which is in full force and effect today throughout this Union.

(*d*) It might be claimed that the last argument was merely academic, were it not for the fact that from the ingrafting of Latin upon our Saxon stock of law have come also Latin expressions of commonest use. Our writs are Latin words. Many of our forms of pleading and all the great principles of jurisprudence have been summarized in brief Latin statements which we call maxims; in an age when "brevity" is the second word to "efficiency," the practical value of this cannot be underestimated. To the legal mind the fact that any argument made comes legitimately and rationally within the scope of one of those great maxims which have guided our courts for centuries gives it weight and invites consideration, because it shows that the argument depends upon no novel or fictitious basis, but is in agreement with the experience of our race in the administration of justice.

II. The comparison between the classics and mathematics in point of training is nowadays less insisted upon; nor do lawyers, as a rule, feel that any great question can be raised here, for the importance of mathematics is unquestioned. But should the question arise whether, after the elementary principles of mathematics and the elements of the Latin or Greek languages have been mastered, to which additional time should be given, we must say that, since mathematics deals only with the relations of numbers, while language and literature deal with the expression of the relations, not only of numbers, but also of life and its rules of conduct, the study of the languages must give the wider vision of the two.

III. But the real conflict in the feeling of today is in regard to the supposed advantages of the study of the natural sciences over that of the ancient classics. Even if it be generally agreed that the study of mathematics, despite its greater finality of **conclusion and exactness of process, is, from the point of view of this discussion, inferior to the study of ancient languages because its subject-matter is so unlike human conduct—the rules of mathe-**

matics having no analogy to the rules of human life—it is claimed that the study of the natural sciences will give an equal, if not superior, training in accuracy through exact observation of the processes of nature, and that the knowledge thereby gained is more fruitful than that acquired from the study of the Latin and Greek languages. The question involved is not as to what knowledge itself is the more useful or the more easily remembered, but which is the better discipline for the mind in preparation for the study and practice of the profession. In the study of the natural world, teachers are often misled by the fact that their pupils show a greater interest in such subjects than in the comparatively abstract study of language, the cause of this interest being largely the pleasure of sense-perception. The eye and the ear easily acquire what the reasoning mind must with difficulty assimilate. But this very fact makes it reasonable to suppose that training in the sciences will not give the power to deduce abstract rules of conduct because the sense-interest dominates the thought-interest. The subject-matter of the physical sciences, furthermore, brings the student ever back to the immutable laws of nature, and so, like mathematics, it fails to aid him directly in studying the mutable conditions of human conduct. The interests involved are not human, the operation of natural laws is too unlike the collective effect of individual free will. The very statement of this fact ought to satisfy the reason upon this point and make applicable the legal maxim, *res ipsa loquitur*.

IV. Another important desideratum in the training of a lawyer is accuracy of interpretation. While one is studying Latin and Greek he is being trained in a method very like that which he must pursue in construing a law. Pick up a statute just enacted, and begin to study it carefully to find out what its full meaning and effect is, and you are doing precisely the same thing as when you take a passage of Livy or Tacitus and endeavor to find its exact meaning. Every word must be weighed, and the point of its position in the sentence determined. The effect of former laws in a case is like the effect of the preceding sentences or the context; and the meaning of that sentence as related to the following sentences, as to whether it

makes a complete story, is like the consideration of full meaning of the statute itself in connection with the rest of the substantive law on the question involved. This determination of the meaning of statutes is one of the most practical duties of a lawyer. It will hardly be maintained by anyone that, as a preparation for this sort of work, the natural sciences or mathematics will have a practical value in training equal to that of Greek and Latin.

I have not attempted to discuss those very important, but apparently less practical, sides of the question which are most often dwelt on at length—such as the development of the taste, the acquiring of elegance of expression, and the distinction of learning—which are so often urged in favor of the study of the classics, because, as a rule in the discussion of this subject, the force of such considerations is admitted by those who differ from us. I have felt the need of presenting this question in a practical and concrete way, because my experience in lecturing to law students has led me to believe that this is the line of argument most apt to be effective at the present day, or at least while the fever of hurry is still a distinguishing characteristic of the age.

Furthermore, that the argument in favor of classical study may be effective, it must be of a kind which will ordinarily be appreciated by young men about to begin the last stages of study before actually engaging in their work in life, and not of the kind which will appeal only to older men whose successes and failures have taught them to view these questions with a greater regard for the value of professional training as it fits in and becomes part of the experience of life than as a means of immediate financial return. Whichever class of argument may be the more effective, we shall all agree that the day has gone which could prompt the couplet of Edmund Waller:

Poets who would marble seek,
Must come in Latin or in Greek.

Nevertheless, we cannot forget that, with very few exceptions, lawyers who have come to distinguish themselves in their profession and to be of use to the world have come *through* Latin or *through* Greek.